

MAR 21 2007

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Remarks

Claims 1, 10, 23, 32, 45 and 54 are under consideration. These claims are directed to a biopsy device suitable for collection of tissue samples and include: (a) an introducer assembly, (b) a cutter assembly received within the introducer assembly and extendable axially through the introducer assembly, and (c) an endoscope assembly within the cutter tube that can extend axially through the cutter tube.

Claims 2-9, 11-22, 24-31, 33-44, 46-53 and 55-66, previously withdrawn from consideration, have been canceled without prejudice in order to expedite the further prosecution of this application.

The rejection of claims 1, 10, 23, 32, 45 and 54 under 35 U.S.C. 102(b) as anticipated by Corvi et al. is not warranted, and is hereby traversed. The Examiner's stated belief is not sufficient to support the rejection. As pointed out in the prior Amendment and Response Under Rule 111, catheter 12 is not an introducer, but a flexible, tubular catheter body that carries a cutting mechanism 18 at its distal end (Page 3, ¶ [0030]).

The claims presently under consideration expressly require cooperation between the introducer sheath and the cutter tube for severing the tissue sample by relative movement therebetween. Corvi et al. do not show that. Instead, as shown in the Figures and described in Paragraph 0030, cutting mechanism 18, comprising outer cutter 20 and inner cutter 22 is a separate and distinct assembly attached to the distal end of the flexible catheter body 12. The arrangement of parts is clearly different.

Figure 15 of Corvi et al. does not show an endoscope assembly that can axially extend through a cutter assembly as presently claimed. In Corvi et al., material imaging device 264 is shown as a relatively short band, fixed on the inner cutter along with needle 260. This band 264 does not extend through outer cutter 202. See, for example, Figure 15 and the description of Figure 15 at page 5, ¶ [0049]. Thus the applied reference fails to show the

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claimed device that includes an endoscope assembly, even if, *arguendo*, the referred to optical fibers are deemed to be an endoscope. Applicant respectfully submits that, even if Item 264 is deemed to be the referred to optical fibers, Corvi et al. do not show an endoscope assembly.

As can be readily seen from Figure 1, there is no introducer assembly in the Corvi et al. device. Atraumatic tip 24 is attached to the outer cutter 20 (Page 3, ¶ [0030]), not to catheter 12.

The presence of the material capture device with the reciprocable inner cutter 200 (see Figures 9-14, for example) precludes any extension of the shown "inner cutter assembly" axially beyond the distal end of the tube that carries outer cutter 202 even if the outer cutter, *arguendo*, is deemed to be an introducer assembly.

Corvi et al. clearly fails to anticipate the presently claimed invention. The presently claimed elements are not shown by Corvi et al. Withdrawal of the rejection and early passing of this application to issue is solicited.

Respectfully submitted,

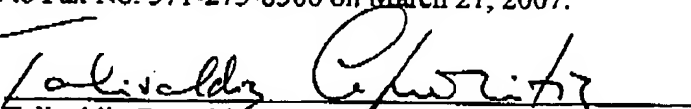
March 21, 2007

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT AND RESPONSE UNDER RULE 116 is being transmitted by facsimile transmission to Fax No. 571-273-8300 on March 21, 2007.


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